

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MACK BUTLER, DESHAUN SIMS, CLYDE
LOFTON, PAUL ALVER, KEVIN KING, and
RICKEY LYNCH, on behalf of themselves and all
others similarly situated,

Plaintiffs,
-against-

ORDER
CV 11-2602 (JS)(AYS)

SUFFOLK COUNTY,

Defendant.

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SHIELDS, United States Magistrate Judge:

The Court has reviewed the parties' correspondence indicating their positions regarding how to conduct an updated inspection of the facilities at issue here, which inspections are now scheduled to take place on June 6-7, 2024. The Court notes that current inspections are necessary to prepare for trial, and to understand the need, if any, for injunctive relief. Updated inspections have also become necessary because Plaintiffs' expert, who conducted the 2015 inspection of particular cell areas, is now unavailable.

In addition to considering the current discovery and trial schedule, the Court has reviewed and considered the transcript of the 2015 proceedings before then-Magistrate Judge Brown. That transcript reveals the parties' desire to cooperate, but also the logistical and security issues raised by the scheduling of any inspection. The Court has balanced those logistical and security issues against the argument (made then and presumably now) that the County might somehow alter the condition of areas that it knows will be inspected – a consideration that the Court affords somewhat less weight in light of the fact that inspections include taking samples of water inside cell toilets – which water presumably flows through the plumbing system and is not specific to a particular cell. The consideration of last-minute alterations to particular cells is also

entitled to less weight because jail conditions may have, in any event, changed since the last inspection was undertaken – a fact that counsel, as well as any witness, must take into account.

Sampling the same areas as those previously inspected will ensure some level of continuity and allow the parties and their experts to make a more cogent comparative review of like conditions, than a review of past conditions compared to a set of completely different cells. Accordingly, and so that inspections can go forward in the most expeditious and fair manner, the Court adopts Defendant's approach.

SO ORDERED.

Dated: Central Islip, New York
June 2, 2024

/s/ Anne Y. Shields
ANNE Y. SHIELDS
United States Magistrate Judge